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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

Cung Le, Nathan Quarry, Jon Fitch, Brandon
Vera, Luis Javier Vazquez, and Kyle
Kingsbury on behalf of themselves and all
others similarly situated,

Plaintiffs,

v.

Zuffa, LLC, d/b/a Ultimate Fighting
Championship and UFC,

Defendant.

Case No.: 2:15-cv-01045-RFB-(BNW)

**ZUFFA, LLC'S RESPONSE TO
PLAINTIFFS' SUPPLEMENTAL
NOTICE REGARDING
DISCLOSURE OF CASE
MATERIALS IN CONNECTION
WITH CLASS CERTIFICATION
OPINION AND ORDER (ECF NO.
791)**

1 On January 6, 2021, the Court indicated its “intent to unseal and make public all the
 2 documents in this case with the publication of the Court’s Certification Order” and gave the
 3 parties and interested third parties an opportunity to indicate their position on the “disclosure of
 4 all the material.” ECF No. 782. In response to the Court’s Order, on January 7, Plaintiffs filed a
 5 Notice stating that they did not object to the unsealing of all materials. ECF No. 783.¹ Both
 6 Zuffa and non-party Bellator Sport Worldwide LLC objected to the unsealing of certain
 7 documents. ECF Nos. 785 (Bellator objection), 786, and 787 (Zuffa objection and supplement).
 8 Despite the fact that the parties and non-parties have submitted their positions and the
 9 confidentiality issues have been briefed fully, Plaintiffs now propose creating a two-track process
 10 where the Court issues its Class Certification Order while “withholding a ruling on any further
 11 unsealing of record evidence” to provide the parties an opportunity “to address which record
 12 documents, if any, should remain sealed or partially redacted.” ECF No. 791. Such a process is
 13 not necessary, and Plaintiffs have not provided a reason to delay resolving the confidentiality
 14 issues associated with the forthcoming Class Certification Order.

15 Plaintiffs’ proposal contemplates that the parties need additional time “to address which
 16 record documents, if any, should remain sealed or partially redacted,” ECF No. 791,
 17 notwithstanding that the parties have briefed these issues fully. Zuffa has identified three
 18 categories of documents that should remain sealed or redacted. The first category consists of
 19 three exhibits admitted at the 2019 Evidentiary Hearing. Zuffa Objections, ECF No. 786 at 3–6
 20 (The Posting Memo (PCCX41); The UFC Overview (PCCX344); and the Dana White Text
 21 Messages (PCCX414)). The second category of documents are expert reports, which contain
 22 sensitive financial information. (E.g., Guy Davis Rebuttal Expert Rep., ECF No. 518-9;
 23 Elizabeth Davis Expert Rep., ECF 540-65; Singer Expert Rep., ECF No. 727-1; Zimbalist Rep.
 24 ECF No. 518-5). The final category are those documents that are not relevant to the Court’s
 25 Certification Order, but which nonetheless contain highly sensitive confidential information. In
 26 its January 11 Objection, Zuffa sets forth the compelling reasons to seal this material, and, for

27 ¹ Several third parties also filed letters in support of unsealing the documents in the case. ECF
 28 No. 784.

1 each category, Zuffa previously has filed motions to seal and redact the documents that lay out
 2 why the documents warrant protections against broad disclosure. *See, e.g.*, Zuffa's Mot. to Seal
 3 Pl.'s Mot. to Certify Class, ECF No. 527 (requesting to seal various exhibits to Plaintiffs' class
 4 certification motion, including Dana White's Text Messages (Ex. 43), Guy Davis's Rebuttal
 5 Expert Report (Ex. 7), Zimbalist and Singer Expert Reports (Exs. 1–4)); Sep. 23, 2019 Hr'g Tr.,
 6 ECF 786-1, at 132:11–134:4 (Court discussing redactions to The Posting Memo); Zuffa's Mot. to
 7 Seal Pls.' Ex. 17, ECF No. 754 at 2 (demonstrating that The UFC Overview contains highly
 8 sensitive financial information); Notice of Sealing Requested in Aug. 26, 2019 Hearing, ECF No.
 9 727 (requesting redactions of Singer and Zimbalist reports). Because the issues here have been
 10 briefed, determining the confidentiality of those documents prior to issuing the Class Certification
 11 Order should not substantially delay this case. A separate process for briefing confidentiality is
 12 therefore unnecessary.²

13 Accordingly, Zuffa respectfully requests that the Court resolve the confidentiality issues
 14 prior to issuing the Class Certification Order.

15 Dated: January 27, 2021

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22 ²Releasing the Court's Class Certification Order before resolving the confidentiality issues also
 23 would unduly prejudice Zuffa's ability to seek review of the Class Certification Order. Zuffa
 24 would need to brief confidentiality while simultaneously preparing a petition for review within
 25 the 14-day period allowed by Rule 23(f). In addition, because Zuffa would not know which parts
 26 of the Court's order and the record could be cited publicly, Zuffa may have to request that the
 27 Court decide whether individual documents should remain sealed or redacted during that short
 28 period of time. To the extent that there are outstanding confidentiality issues before this Court
 while the petition is pending, it also could unduly complicate the Ninth Circuit's consideration of
 the petition. Ruling on the confidentiality issues *before* releasing the Class Certification would
 avoid these complications. Although Plaintiffs' proposal would prejudice Zuffa, Plaintiffs have
 not identified any prejudice that would result from the Court ruling on confidentiality first, nor
 have they articulated any reason to take the issues out of order.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing **Response to Plaintiffs' Supplemental Notice Regarding Disclosure of Case Materials** was served on January 27, 2021 via the Court's CM/ECF electronic filing system addressed to all parties on the e-service list.

By: /s/ Stacey K. Grigsby

Stacey K. Grigsby